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ABSTRACT

Grievance procedures of the Department of Commerce are described and suggestions to the supervisor for dealing with these problems are given. Graphics and handouts point up highlights of complaints procedure and include checklist of steps for supervisor to take. (NF)

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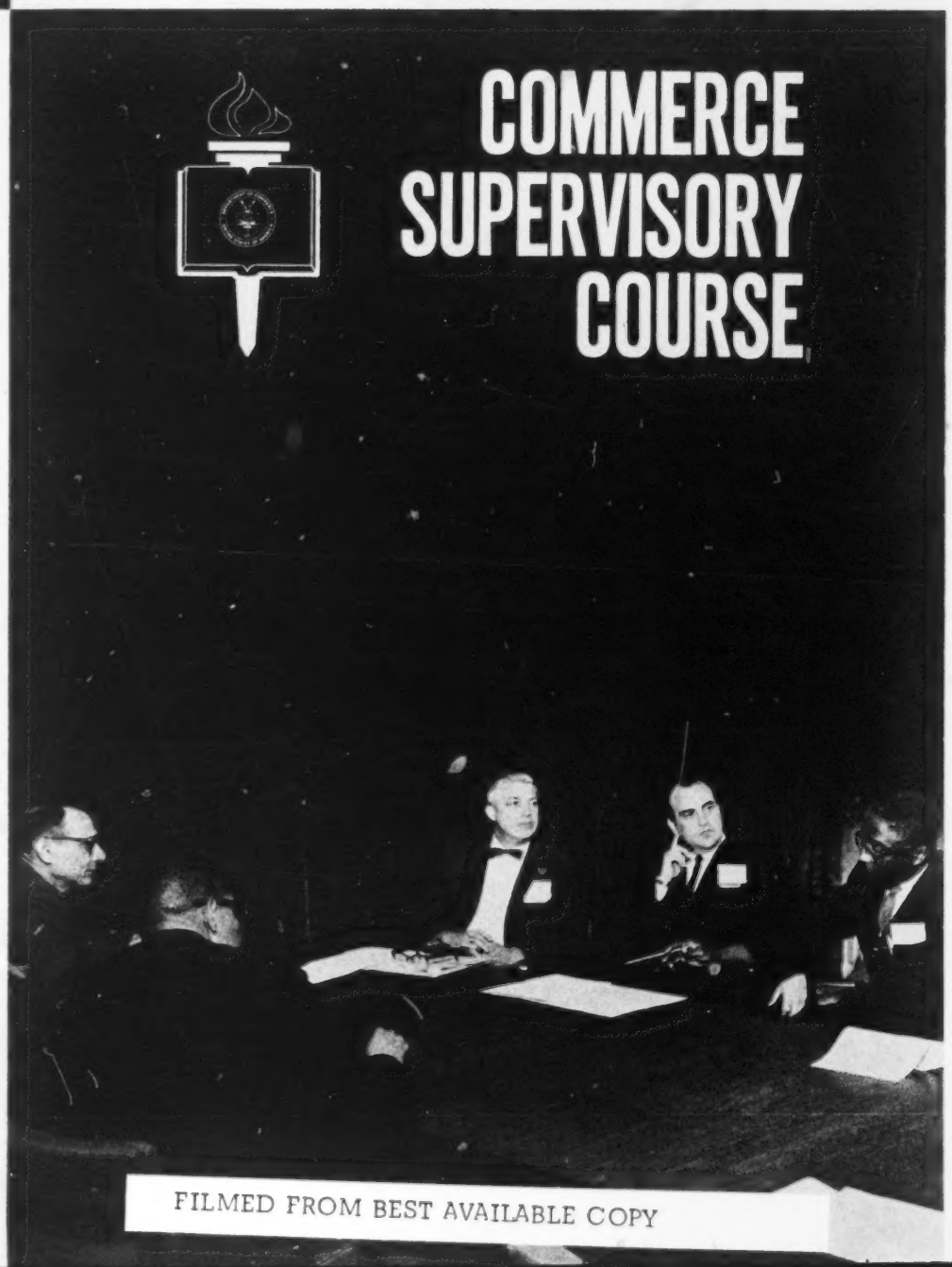
DISCUSSION GUIDE

GRIEVANCES NO. II–6–19

COMMERCE SUPERVISORY COURSE



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OFFICE OF THE SECRETARY

OFFICE OF PERSONNEL

ABOUT THE DISCUSSION GUIDES

The study of supervisory processes and practices has been going on for many, many years, and practical knowledge of experience based supervisory activities continues to increase. These discussion guides provide ideas, concepts, and approaches to the supervisory function that capture the experience of successful supervisors in the Federal Government.

These guides, covering the major processes of the Government supervisor, are in response to the need for basic supervisory training materials that can be used in the instruction and training of supervisors throughout the U.S. Department of Commerce.

Each discussion guide may be used separately or in concert with other guides. Latitude is provided in the design to tailor the subject matter to the needs of the respective bureaus of the U.S. Department of Commerce.

These guides were developed by a Task Force composed of representatives of the various Bureaus of the U.S. Department of Commerce and the Office of the Secretary. Their background and experience reflects a variety of professional and technical specialties within the Department.

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The discussion guide on the subject of Grievances was the task assignment of J. Gordon Hermes, Maritime Administration

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U. S. Department of Commerce

COMMERCE SUPERVISORY COURSE

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SESSION II-6-19

GRIEVANCES

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Office of Personnel
Office of the Secretary

SESSION II-6-19

GRIEVANCES

INTRODUCTION AND OVERVIEW

The purpose of this session is to acquaint the supervisor with the grievance procedures of the Department of Commerce and point out to him that he is in a position to deal with complaints before they become formal grievances.

Whether considered complex or simple, the purpose of the grievance procedure is to provide prompt, fair, and complete review to all complaints and grievances.

The system also recognizes that employee-management problems are bound to occur and when they do occur encourages solution at the lowest possible level before attitudes are warped, prejudices are set and management is irrevocably committed. The system is built around face-to-face discussions, objective evaluation of facts and conditions to deter or preclude wrangling on an emotional level and to encourage supervisors to exercise their responsibilities in a constructive manner.

Periodically, all of us complain about our jobs. So do your employees. It is impossible to prevent all complaints. Elimination of complaints may not be desirable for a lack of complaints may indicate that employees do not have confidence in you as a supervisor or doubt your ability to take fair and corrective action.

When employee performance is adversely affected, understanding and settling complaints and grievances becomes one of your most important jobs. IT CAN ALSO BE YOUR TOUGHEST.

Subject: Grievances

Time Allotted: 1 - 1½ hours

Aids Required:
VU-Graph
Blackboard
Transparency
Handounts
Film: "A Case Of Insubordination" - Roundtable Films

Open session: Why is subject of Grievances important to you?	Allow comment
DEFINITION	A Complaint is an informal expression of dissatisfaction by an employee with aspects of his employment or working conditions which are outside his control.
SUPERVISOR'S RESPONSIBILITY	A supervisor's role is critical since the procedure starts with you. Effective action by you may keep a complaint from becoming a formal grievance. An employee acting in an official capacity shall not interfere with or attempt to interfere with the filing of a complaint, grievance, or appeal, or to take or threaten to take any act of reprisal (including but not limited to discharge or other disciplinary action, denial of promotion or adverse performance evaluation) against an employee because he has filed or expressed an intention to file a complaint or grievance under the procedure of his Agency.
WHY ACT PROMPTLY AND FAIRLY?	Each supervisor must act promptly and fairly on employee dissatisfaction, seeking advice and assistance when needed. 1. To resolve the problem and improve morale 2. To prevent other employees from becoming dissatisfied. 3. To prevent desirable employees from leaving. To maintain respect of employees as well as superiors.
TYPICAL PROBLEM SITUATIONS	What are some typical problem situations causing complaints or grievances? 1. Work assignments and working conditions a. undesirable tasks b. non-rewarding work, e.g., too hard or too easy

2. Lack of communication between supervisor and employees.

3. Personnel actions - promotions

4. Friction among workers

5. Individual employee personality
   a. emotional
   b. poor health
   c. poor attitude

WHAT MAY BE DANGER SIGNALS?

These are several indications of trouble which may be manifested prior to the complaint or grievance.

1. Decrease in quantity or quality of work
2. Poor attitude, e.g., loafing, uncooperative, frequent absences, poor leave record.
3. Above normal turnover
4. Low morale
5. Group members comments

CHRONIC COMPLAINER

You have run into the chronic complainer. He is dissatisfied no matter what is done for him. He complains to everyone who will listen to him and finds fault with everybody and everything. He is a disturbing influence.

WHAT TO DO WITH THE CHRONIC COMPLAINER

Try to find out the cause of his complaints

Attempt to help him achieve a changed attitude

Reassignment may be only answer

Sometimes removal is the only answer

There are no set rules for developing this information, and each case must be handled on an individual basis. While skill and insight in human relations are required in getting to the heart of a complaint or grievance, we can at least keep in mind our experience with ourselves and other people. No one can quite put himself in another's place, yet the major forces and areas of human life are the same for all of us.

WHAT SHOULD YOU DO ON RECEIPT OF A COMPLAINT?	You have received a complaint. What do you do now? 1. Listen 2. Question employee to get facts 3. Check facts if necessary 4. Check findings with employees 5. Try to uncover cause for complaint 6. Determine solution employee feels proper 7. Present plan of action 8. Get employee agreement if possible 9. Take action or refer to proper authority 10. Follow through 11. Document facts and action 12. Determine how problem could have been avoided.
FORMAL GRIEVANCE PROCEDURE	A grievance is a formal expression by an employee of dissatisfaction with any matter (see exceptions) related to his employment or working conditions which affects the employee personally, which cannot be or is not resolved to his satisfaction as a complaint at the level of his immediate supervisor, which is in the administrative discretion or control of the Department of Commerce, and which is not subject to consideration under another established appeal or review procedure.
Examples:	Working conditions or environment Relationships with supervisors and other employees and officials. Management decisions in the application of established procedures. Carrying out of established personnel policies and employee management agreements. Violation of rights under Merit Promotion procedures.
Exceptions:	Policies, criteria and procedures established by the Department or any of its operating units. Personnel actions and other matters subject to appeal under any other established appeal procedures (discrimination, adverse actions appealable under law or CSC regulations, General Schedule step increase determinations). Non-selection from a list certified to a selecting official under the Merit Promotion Plan.

	Any employee can make a complaint and has the right to have it considered. The formal grievance procedure is limited in coverage.
EMPLOYEE COVERAGE - GRIEVANCE PROCEDURE	All full-time paid employees of the Department of Commerce.
Exceptions:	Reemployed annuitant Employee serving under a temporary appointment, including TAPER employees. Presidential appointee. Employee currently serving probationary or trial period. Commissioned officer of ESSA. Employee subject to another grievance system approved by the Office of Personnel to meet the requirements of special circumstances. An employee stationed outside the U.S. holding an "overseas limited" or other non-permanent appointment. An employee whose position is included in Schedule C. An employee who is a member of the crew of a vessel. An individual whose services are procured under a contract or purchase order but who serves in an employer-employee relationship to the Department. Any other class of employee with respect to whom the Director of Personnel determines that tenure or conditions of employment make use of this procedure inappropriate.
INITIATION OF A GRIEVANCE	A grievance must be submitted in writing and state that it is a grievance to be considered under the Department grievance procedures and signed by the employee(s) who initiate it.
EMPLOYEE ORGANIZATION	An employee organization may not initiate a grievance but may present the grievance on behalf of an employee or group of employees at their request.

	An employee represented by a professional, labor or union organization having exclusive recognition may elect to have his grievance considered under either the Department of Commerce procedure or the procedure negotiated with the agency and the employee organization. BUT NOT BOTH.
CONTENT	A grievance shall state clearly the specific nature of the matter causing dissatisfaction and, where appropriate, the corrective action desired. As far as practicable it shall set forth all relevant factual information available including dates, individual's names, incidents, occurrences, circumstances and the date of any specific management decision or action constituting part of the stated cause of dissatisfaction. Each grievance shall relate solely to matters within a single operating unit.
SUBMISSION OF GRIEVANCES	A grievance or part thereof previously acted upon under the Department's grievance procedure may not be resubmitted for consideration.
TIME LIMITATIONS	A grievance not previously acted upon under the Department's procedure may be submitted at any time except one not previously acted upon and which is based in whole or in part upon a specific management decision or action. This type must be submitted within 30 calendar days after the date of said decision or action; except for good cause accepted by the operating unit.
WHERE	Headquarters - Head of the operating unit. Field - Head of such office as operating unit may specify Copy shall be sent simultaneously to the Personnel Officer of the operating unit Grievance will be referred to the official authorized to render decision on it.
GRANTING OF OFFICIAL TIME TO GRIEVANT	A reasonable amount of official time shall be granted, as determined by operating unit, for Presenting a grievance, and a reasonable amount of official time for Preparation of a grievance may also be granted at the discretion of the operating unit.

FREEDOM FROM RESTRAINT	Every employee shall be assured freedom from restraint, interference, coercion, discrimination, or reprisal in connection with the presentation of a grievance.
REPRESENTATION	Each employee shall have the right to be accompanied, represented and advised by a representative of his choosing in presenting a grievance. If the unit has an exclusive employee organization, they must be given the opportunity to have someone present at discussions between employees and management in the course of formal grievance proceedings but this in no way infringes on the grievant's right to choose his own representative. An employee designated as a representative in a grievance action shall be free from restraint, interference, coercion, discrimination or reprisal for such performance. He shall also be granted a reasonable amount of official time, as determined by the operating unit, for presenting a grievance. All communications concerning the grievance shall be addressed to the grievant with copy to his representative until either or both indicates a desire to the contrary. An employee in a unit represented by an employee organization having exclusive recognition has the right to have his grievance considered under procedures provided under an agreement entered into or negotiated with the employee organization representing the unit but not under both the negotiated procedure and the regular procedure.
GRIEVANCE REVIEW	
SINGLE LEVEL OF REVIEW ONLY	There should be one level of grievance review as a matter of right and that level shall be the head of the operating unit in which grievant is employed or his designated representative. Designated representative must meet these requirements: Able to give full, impartial consideration to the grievance. Possess authority to make appropriate adjustments. Hold a position in organization to insure that viewpoints and policies of the operating unit head are reflected on the decision.

	Be at a higher administrative level than any official making an earlier decision on the subject matter of the grievance. Where the head of an operating unit is unable to give full impartial consideration of the grievance; does not have authority to make appropriate adjustments; or has already made an earlier decision on the grievance subject matter; the Assistant Secretary for Administration shall render a final decision on the grievance.
REVIEW COMMITTEE	Committee will consist of one or more members designated by official authorized to render a decision. No one may serve who has been, is, or will be responsible for reviewing or acting upon the grievance subject matter or on the committee report.
PERSONAL PRESENTATIONS BEFORE REVIEW COMMITTEE	The review committee shall afford the opportunity for a personal presentation of the grievance. Presentations shall be as informal as practicable Evidence must be pertinent but the rules of evidence need not be followed There is no right of cross examination unless determined necessary to resolve an issue Operating unit representative at hearing shall be designated by official rendering the final decision. Employees called as witnesses shall be considered in a duty status if they would otherwise be in a duty status at the time. Witnesses shall be free from restraint, interference, coercion, discrimination or reprisal.
COMMITTEE REPORT	A written summary or transcript of the proceedings will be prepared including all pertinent documents submitted for consideration and shall be signed by the parties concerned with such exceptions as they submit in writing. The committee shall report in writing its findings of fact to the official authorized to render the decision on the grievance with copies to all involved parties.

DECISION	The decision will be rendered in writing and include a statement of the basis for the decision.
TIME STANDARDS FOR GRIEVANCE PROCEDURES	Formation of review committee - Ideally within 3 working days following receipt of grievance by operating unit head. Practice-as soon as feasible. Personal presentation, interviewing of witnesses, examination of evidence - within 5 additional workdays. Completion and transmittal of summary/transcript and review committee report - within 10 additional workdays. Issuance of decision - within 5 additional workdays.
ESTABLISHMENT OF A GRIEVANCE FILE	File will be established and placed in the custody of the Personnel Officer. It will contain: The written grievance Transcript or summary of hearing Findings of fact Documentary evidence Written decision
ADVISORY ARBITRATION	An agreement with an employee organization recognized as the exclusive representative in a unit may provide for arbitration of grievance subject to the following conditions: Arbitration will extend only to the interpretation or application of agreements or policy, not to changes in agreements or in Agency policy. Arbitration may be invoked only with the approval of the individual employee concerned. Costs must be shared equally by the parties. The arbitrators decision will be binding and final unless an exception is filed with the Federal Labor Relations Council by either party (or the union agreement provides for only advisory arbitration.)
VALUE OF GRIEVANCES/ COMPLAINTS	Sound off to supervisor Build confidence in management and personnel system

Management	Formal system to handle problems with a reliable degree of efficiency May provide clue as to how supervisor is handling employees May indicate revision or improvement needed in personnel management policies Provides information as to what is actually going on.
SOME PROPOSED CHANGES	ALL employees will be covered but short-term suspensions and terminations of temporary appointment will be excluded as inappropriate topics for grievance. An infomal procedure must be established and used before a written grievance may be filed. An overall time limit of 60 days be established for processing a grievance with intermediate time stages for various steps. In negotiated agreements, certain basic employee rights, and the requirement for using informal procedure before a written grievance may be filed, must be observed, everything else is negotiable.
CSC COMPLAINT OFFICE	Established reporting directly to the CSC Chairman Available to Federal employees believing they have a problem May request further agency investigation of complaints received.
MOVIE "A Case of Insubordination" (Round Table Film)	We have briefly covered the grievance procedure. Now I would like to present a situation to give you some practical feel in gathering facts and making a determination of an alleged grievance. 1. Divide the class into 4 groups a. Employees b. Supervisors c. Witnesses d. Department Managers

2. Show groups a, b, and c their respective portions of the film only. Group d will not see film, They may be provided facts from booklet accompanying film.

3. Reconstitute class into groups having a witness(s) employee, supervisor and department manager for discussion of case. A speaker for each group will report decision on whether employee was insubordinate.

HANDOUT II-6-19-H1 — Supervisor's Check List for participants further use.

HANDOUT II-6-19-H2 — Grievance procedure details.

FURTHER REFERENCES — Suggest further detail available in DOC D.A.O. 202-770.

Consult individual operating unit directives.

U. S. Department of Commerce

COMMERCE SUPERVISORY COURSE

SESSION II-6-19

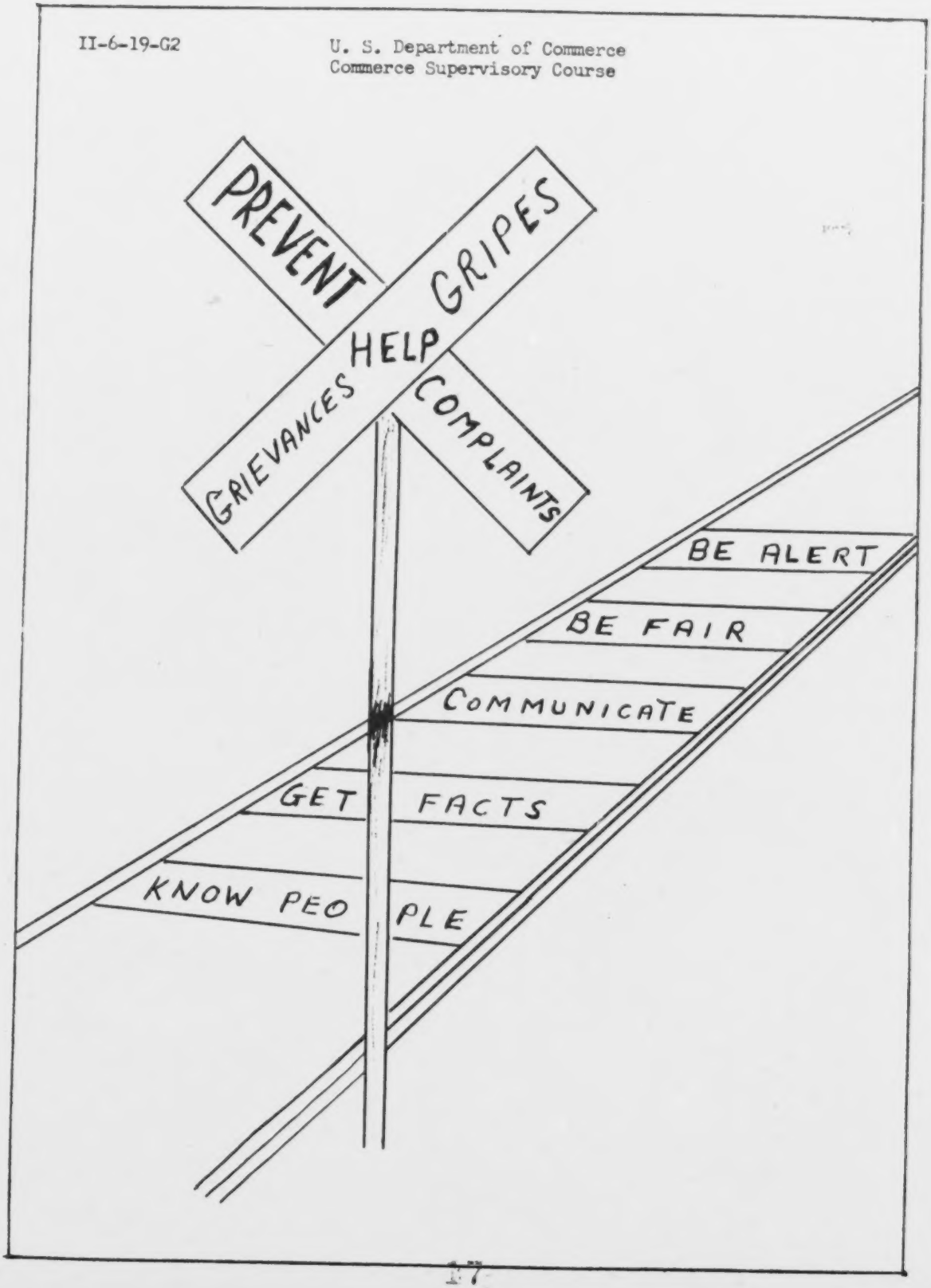
GRIEVANCES

GRAPHICS

EFFECTIVE ADMINISTRATION OF EMPLOYEE-MANAGEMENT RELATIONS INCLUDES PROVIDING EMPLOYEES AMPLE OPPORTUNITY TO OBTAIN CONSIDERATION OF THEIR DISSATISFACTION WITH MATTERS AFFECTING THEM PERSONALLY THAT ARE SUBJECT TO MANAGEMENT CONTROL.

II-6-19-G2

U. S. Department of Commerce
Commerce Supervisory Course



U. S. Department of Commerce

COMMERCE SUPERVISORY COURSE

SESSION II-6-19

GRIEVANCES

HANDOUTS

SUPERVISOR'S CHECKLIST OF STEPS TO TAKE ON RECEIVING A COMPLAINT

- ☐ Listen
- ☐ Question employee to get facts
- ☐ Check facts if necessary
- ☐ Check findings with employee
- ☐ Try to uncover cause for complaint
- ☐ Determine solution employee feels proper
- ☐ Present plan of action
- ☐ Get employee agreement if possible
- ☐ Take action or refer to proper authority
- ☐ Follow through
- ☐ Document facts and action
- ☐ Determine how problem could have been avoided

GRIEVANCE PROCEDURE HIGHLIGHTS

EMPLOYEE COVERAGE: All full time paid employees of the Department of Commerce

Exceptions: Reemployed annuitant

Employee serving under a temporary appointment, including TAPER employees

Presidential appointee

Employee currently serving probationary or trial period

Commissioned officer of ESSA

Employee subject to another grievance system approved by the Office of Personnel to meet the requirements of special circumstances

An employee stationed outside the U.S. holding an "overseas limited" or other non-permanent appointment

An employee whose position is included in Schedule C

An employee who is a member of the crew of a vessel

An individual whose services are procured under a contract or purchase order but who serves in an employer-employee relationship to the Department

Any other class of employee with respect to whom the Director of Personnel determines that tenure or conditions of employment made use of this procedure inappropriate

INITIATION: The grievance must be written and state that it is a grievance to be considered under the Department grievance procedures and signed by employee (s) who initiate it.

EMPLOYEE ORGANIZATIONS: may not initiate a grievance but may present a grievance on behalf of an employee or group of employees.

CONTENT: The grievance must state clearly specific nature of the grievance and where appropriate corrective action desired. As far as possible, all relevant facts should be stated.

SUBMISSION: Headquarters-- head of operating unit

Field- head of such office as operating unit specifies

Personnel Officer of operating unit

GRANTING OF OFFICIAL TIME: A reasonable amount of time will be granted for the preparation and presentation of a grievance as determined by the operating unit.

FREEDOM FROM RESTRAINT: Every employee shall be assured freedom from restraint, interference, coercion, discrimination or reprisal in connection with the presentation of a grievance.

GRIEVANT REPRESENTATION: Each employee shall have the right to be accompanied, represented and advised by a representative of his choosing in presenting a grievance.

GRIEVANCE REVIEW: There should be one level of grievance review and it shall be the head of the operating unit.

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Notes